

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #3	CCRB Case #: 201900785	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/28/2019 7:15 AM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 7/28/2020	EO SOL 3/14/2021	
Date/Time CV Reported Mon, 01/28/2019 8:59 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/28/2019 8:59 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Thomas Guy	1811	950549	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Steven Colon	1443	940019	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Thomas Guy	Abuse: Detective Thomas Guy entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.DT3 Thomas Guy	Abuse: Detective Thomas Guy searched § 87(2)(b) in Manhattan.	§ 87(2)(b)

Case Summary

On January 28, 2019, § 87(2)(b) § 87(2)(b) filed this complaint with the CCRB via telephone (01 Board Review).

On January 28, 2019, at approximately 7:15 AM, Detective Thomas Guy and Detective Steven Colon, both from Brooklyn North Warrant Squad, went to § 87(2)(b) § 87(2)(b) (hereafter referred to as § 87(2)(b) with a bench warrant for § 87(2)(b) § 87(2)(b) § 87(2)(b) Det. Guy and Det. Colon entered and searched § 87(2)(b) **Allegation A: Abuse of Authority,** § 87(2)(g)

No arrests were made or summons issued as a result of this incident.

There is no video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective Thomas Guy entered § 87(2)(b) **in Manhattan NY.**

Allegation (B) Abuse of Authority: Detective Thomas Guy searched § 87(2)(b) **in Manhattan NY.**

It is undisputed that Det. Guy had a bench warrant for § 87(2)(b) and that he and Det. Colon entered and searched § 87(2)(b) It is undisputed that there was a conversation between § 87(2)(b) and Det. Guy about whether Det. Guy and Det. Colon were actually police officers.

As discussed above, § 87(2)(b) (02 Board Review) stated that when he opened his door, Det. Guy told him that he was lucky he had not broken the door down. Det. Guy put his foot in the door to prevent § 87(2)(b) from shutting it. § 87(2)(b) told Det. Guy that he did not know if he and Det. Colon were really police officers and that he did not want them to come inside. § 87(2)(b) also told Det. Guy that he was going to call 911 to verify their identity. Det. Guy told § 87(2)(b) that he could call 911 but that he and Det. Colon were going to come in because they had a warrant. Det. Guy quickly flashed a piece of paper at § 87(2)(b) with § 87(2)(b) photograph on it. § 87(2)(b) did not see anything on the paper besides the photograph. § 87(2)(b) then told Det. Guy and Det. Colon that they could come in because he felt that they were going to do so regardless of what he said, and reiterated that he was going to call 911. Det. Guy told § 87(2)(b) to call 911, pushed the door open, and walked into § 87(2)(b) § 87(2)(b) followed Det. Guy and Det. Colon room to room as they searched the bathroom, hall closet, kitchen drawers and over, and both bedrooms and their closets.

In audio from a 911 call (03 Board Review) made by § 87(2)(b) shortly after Det. Guy and Det. Colon left § 87(2)(b) is heard telling the dispatcher that Det. Guy threatened to break the door down and put his foot in the door to keep § 87(2)(b) from closing it. § 87(2)(b) also says that he did not want a confrontation, so he let them in.

Det. Guy (**04 Board Review**) stated that he went to § 87(2)(b) with a bench warrant for § 87(2)(b). The bench warrant listed § 87(2)(b) in Brooklyn as § 87(2)(b) address. Det. Guy did not visit this address because he thought that it was not a current address.

Prior to going to § 87(2)(b) Det. Guy conducted “multiple” searches for § 87(2)(b). One of the searches was called a “TLO.” Det. Guy could not say specifically how many other searches he conducted or name any of the other searches he conducted, and did not recall on what date or dates he conducted these searches. Det. Guy did not know how many of the searches linked § 87(2)(b) to § 87(2)(b). Det. Guy did not know what relation § 87(2)(b) had to § 87(2)(b) before going to the location and learning that § 87(2)(b) lived in the apartment and was § 87(2)(b) father. Det. Guy thought that § 87(2)(b) lived in Harlem because § 87(2)(b) referenced Harlem on his Instagram page, and had been robbed in Harlem several weeks prior to this incident date. Det. Guy did not visit § 87(2)(b) prior to doing so regarding this incident. Det. Guy did not have any reason to believe § 87(2)(b) would be at the location at the time of the incident.

§ 87(2)(b) began speaking to Det. Guy through the door and told Det. Guy that he did not think he and Det. Colon were really police officers. Det. Guy held his shield and work identification up to the peephole to show § 87(2)(b). Det. Guy told § 87(2)(b) that they were looking for § 87(2)(b) and that they had a warrant for him. Det. Guy held the warrant up to the peephole to show § 87(2)(b). § 87(2)(b) said that § 87(2)(b) was not at the location and Det. Guy told him that the officers still needed to go inside and check. § 87(2)(b) opened the door and Det. Guy told him again that they needed go inside and look for § 87(2)(b). § 87(2)(b) told Det. Guy that he was going to walk through the apartment with the officers as they searched, and Det. Guy told him that he could do so. § 87(2)(b) said, “Come in.” Det. Guy did not put his foot in the door at any point during his conversation with § 87(2)(b). Det. Guy and Det. Colon then entered and checked each room for § 87(2)(b) with negative results. § 87(2)(b) never told Det. Guy and Det. Colon that he did not want them inside of the apartment or that he wanted them to leave. § 87(2)(b) was calm and accommodating while Det. Guy and Det. Colon were at § 87(2)(b) and Det. Guy left his business card with § 87(2)(b) so that § 87(2)(b) could put him in touch with § 87(2)(b). Shortly after Det. Guy and Det. Colon left § 87(2)(b) § 87(2)(b) called Det. Guy’s work cellphone and yelled at Det. Guy that he had violated his rights by coming inside of § 87(2)(b).

Det. Guy’s DD5’s (**14 Board Review**) show that he visited two locations with negative results prior to visiting § 87(2)(b) on January 29, 2019. Det. Guy’s entry regarding this visit states that he spoke with § 87(2)(b) father, § 87(2)(b). § 87(2)(b) stated that he had not seen § 87(2)(b) for four weeks and that he did not know where § 87(2)(b) was living.

Det. Guy’s DD5’s also show that he conducted searches of six databases for § 87(2)(b). Any addresses or contact information that may have been discovered as a result of these searches were not enumerated in the DD5’s.

The bench warrant for § 87(2)(b) (**12 Board Review**) was issued on December 4, 2018. § 87(2)(b) address is listed as § 87(2)(b) in Brooklyn.

A bench warrant permits entry into what police reasonably believe to be the suspect's residence provided that at the time of the entry the police reasonably believe the suspect is present. The reasonableness of this belief is based upon the amount of information available to the officer at the time of the entry, as well as the age of this information. People v. Smith, 806 N.Y.S. 2d 447 (2005) **(09 Board Review)**

Submission to authority does not constitute consent. People v. Farquharson, 901 N.Y.S. 2d 901 (2009- Sup. Ct. Bronx County) **(07 Board Review)** Consent must be voluntary in that it cannot be produced by intimidation or harassment. Florida v. Bostick, 501 U.S. 429 (1991) **(06 Board Review)**

In order to demand entry to the dwelling of a third party in order to execute an arrest of another person, the officer must additionally possess a search warrant. Without a search warrant, an officer may only enter a third party's dwelling if he has consent or there are exigent circumstances. People v. Rodriguez, 19 Misc. 3d 302 (2008) **(13 Board Review)**

According to McBride, the following factors have been used to determine if exigent circumstances exist: (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the subject committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) **(08 Board Review)**

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to one additional CCRB case **(10 Board Review)**.

- § 87(2)(b) [REDACTED]
- Det. Guy has been a member of service for eight years and has been subject to ten previous complaints with ten allegations and no substantiations § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of October 3, 2019, a FOIL request to the NYC Office of the Comptroller is pending.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad No.: 3

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date